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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/934,032

08/21/2001

Travis J. Parry

10016437-1

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7590

10/13/2006

HEWLETT-PACKARD COMPANY

Intellectual Property Administration

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EXAMINER

NGUYEN, NGA B

ART UNIT

PAPER NUMBER

3692

DATE MAILED: 10/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/934,032

Applicant(s)

PARRY ET AL.

Examiner

Nga B. Nguyen

Art Unit

3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is in response to the communication filed on June 28, 2006, which paper has been placed of record in the file.
2. Claims 1-23 are pending in this application.

Response to Arguments/Amendment

3. Applicant's arguments with respect to claims 1-23 have been considered but are not persuasive.

In response to the applicant's arguments that Feezell does not disclose "providing a rating for the service item based upon a common rating scale", examiner submits that see Feezell, column 7, lines 35-45, the buyer assign weights to the submitted requirements, e.g. the age is assigned a weight of 10, the income is assigned a weight of 20, the TSES use weight information to prioritize ***time slots that meet some or all of the submitted criteria***, and displaying to the buyer time slots raked from most suitable to less suitable based upon the need specified by the buyer in terms of weighted requirements, thus the weighted criteria submitted by the user are time slots' criteria or the time slot (the service item) is rating according to the time slots' criteria. Moreover, Feezell also discloses rating the time slots according to audience ratings, quality ratings (see column 9, lines 1-22). Therefore, *Feezell does disclose "providing a rating for the service item based upon a common rating scale."*

In response to the applicant's arguments that Feezell does not disclose "receiving on-line bids for the service item in terms of rating units rather than monetary

Art Unit: 3628

units", examiner submits that see Feezell, column 10, lines 5-25, the buyer can submit "a non-specific bid" is based upon criteria of a time slot, e.g. a bid seeks a time slot with a viewer demographic focusing on households with annual incomes between \$20,00 and \$30,000, thus the non-specific bid is based upon criteria of a time slot, not monetary unit. Therefore, Feezell does disclose "receiving on-line bids for the service item in terms of rating units rather than monetary units."

In conclusion, for the reason set forth above, examiner decides to maintain the previous rejection (also see details below) and make this Office action FINAL.

4. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3628

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1, 2, and 4-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Feezell et al (hereinafter Feezell), U.S. Patent No. 6,253,189..

Regarding to claim 1, Feezell discloses a method for facilitating the on-line auction of one or more services, the method comprising:

obtaining a service item for auction (column 5, lines 1-10, the Time Slot Exchange Server (TSES) 406 receives the time slot offers from sellers and stores in the database 405);

providing a rating for the service item based upon a common rating scale (column 7, lines 35-45, assigning weights to the submitted requirements, e.g. the age is assigned a weight of 10, the income is assigned a weight of 20);

managing an on-line auction for the service item, wherein the managing comprises: receiving on-line bids for the service item in terms of rating units rather than monetary units (column 10, lines 5-25, receiving a non-specific bid from the buyer, e.g. a bid seeks a time slot with a viewer demographic focusing on households with annual incomes between \$20,000 and \$30,000, the bidder specifies a 10% tolerance in the household income requirement); closing the on-line auction for the service item; indicating one or more winning bids and one or more winning bidders

Art Unit: 3628

(column 8, lines 25-27, a seller can accept a bid effectuate a transaction by selecting an accept button next to each bid).

Regarding to claim 2, Feezell further discloses receiving compensation from one or more members of a group selected from an auction bidder, an auction participant, a service seller, a service buyer, a service item placer, and a member of an auction (column 12, lines 24-25, the TSES debits a service fee from a buyer's account and a seller's account).

Regarding to claim 4, Feezell further discloses wherein the obtaining further comprises receiving information related to the service item via a communications network (column 4, lines 45-65, the client can interact with the TSES (e.g., send bids, offers, obtain information, etc.) via the Internet).

Regarding to claim 5, Feezell further discloses receiving real-time bids for the service item via a communications network (column 9, lines 50-60, the TSES receives a bid for a time slot from the buyer).

Regarding to claims 6-8, Feezell further discloses wherein the service item is a service, the service item may have a high degree of variation in valuation, the service item has a time sensitive valuation (column 5, line 10-column 6, line 40, the service item is a time slot includes broadcast date, broadcast time, time slot duration).

Regarding to claim 9, Feezell further discloses wherein the service item has a time sensitive valuation and is selected from a group consisting of: advertising; advertising in movie houses; advertising in broadcast media; advertising on the radio, advertising on television; advertising on an Internet Web site; brokerage and financial services;

advertising in printed publications (column 2, lines 60-65, advertising in broadcast media).

Regarding to claim 10, Feezell further discloses wherein the service item has a time sensitive value, such service is intended to be performed for or by the one or more winning bidders (column 11, lines 15-35, advertisements are performed by advertisers).

Regarding to claim 11, Feezell further discloses an on-line marketplace for auctioning services, the marketplace comprising:

a service auction-block computing system configured to obtain a service item for auction (figure 1, Time Slot Exchange Server 406);

a services rating computing system configured to provide a rating for the service item for auction based upon a common rating scale (figure 1, Independent Ratings Agency Server);

an auctioneer computing system configured to manage an on-line auction for the service item (figure 1, Time Slot Exchange Server 406).

Claims 12-17 contain similar limitations found on claims 1, 6-10 above, therefore, are rejected by the same rationale.

Claim 18-23 are written in computer-readable medium that parallel the limitations found on claims 1, 6-10 above, therefore, are rejected by the same rationale.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3628

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Feezell et al (hereinafter Feezell), U.S. Patent No. 6,253,189, in view of Roth et al (hereinafter Roth), U.S. Patent No. 6,285,987.

Regarding to claim 3, Feezell does not disclose facilitating real-time provision of the service item for the one or more winning bidder, wherein the real-time provision of the service item occurs proximally near in time to the closing. However, Roth discloses facilitating real-time provision of the service item for the one or more winning bidder, wherein the real-time provision of the service item occurs proximally near in time to the closing (column 5, lines 45-63). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Feezell to incorporate the feature taught by Roth above, for the purpose of time consuming because the provision of the service item occurs in real-time.

Conclusion

9. Claims 1-23 are rejected.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Nga B. Nguyen whose telephone number is (571-272-6796). The examiner can normally be reached on Monday-Thursday from 9:00AM-6:00PM.

Art Unit: 3628

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on (571) 272-6799.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-3600.

11. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

C/o Technology Center 3600

Washington, DC 20231

Or faxed to:

(703) 872-9306 (for formal communication intended for entry),

or

(571) 273-0325 (for informal or draft communication, please label "PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to Knox building, 501 Dulany Street, Alexandria, VA, First Floor (Receptionist).



NGA NGUYEN
PRIMARY EXAMINER

September 15, 2006